

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Cause No. 4:19CR-00980 HEA

HAITAO XIANG,

Defendant.

=====

SENTENCING HEARING

BEFORE THE HONORABLE HENRY E. AUTREY
UNITED STATES DISTRICT JUDGE
-- VIA VIDEO CONFERENCE --

APRIL 7, 2022

=====

APPEARANCES

For Plaintiff:

Mr. Matthew T. Drake
U.S. ATTORNEY'S OFFICE
111 South 10th Street
St. Louis, MO 63102

For Defendant:

Mr. Vadim A. Glozman
LAW OFFICES OF VADIM GLOZMAN
53 W. Jackson, Suite 1410
Chicago, IL 60604

Appearances Continued on the Next Page:

Reported by:

Alison M. Garagnani, CCR #475, CSR, RMR, CRR
Official Court Reporter
United States District Court
555 Independence, Room 3100
Cape Girardeau, MO 63703
(573) 331-8832

APPEARANCES CONTINUED

For Bayer US, LLC:

Mr. Matthew P. Diehr
HUSCH BLACKWELL, LLP - St. Louis
190 Carondelet Plaza
Suite 600
St. Louis, MO 63105

For the Climate Corporation:

Mr. Matthew P. Diehr
HUSCH BLACKWELL, LLP - St. Louis
190 Carondelet Plaza
Suite 600
St. Louis, MO 63105

Interpreter:

May Huang

1 (THE PROCEEDINGS BEGAN AT 10:06 A.M.)

2 (THE FOLLOWING PROCEEDINGS WERE HELD VIA VIDEO CONFERENCE
3 WITH THE DEFENDANT PRESENT VIA VIDEO:)

4 THE CLERK: All right. Good morning, Judge. I
5 have a couple of announcements. We have some callers on the
6 line, so I'll go ahead and make my first announcement.

7 So all those on the zoom call pursuant to Local
8 Rule 13.02 all means of photographing, recording,
9 broadcasting and televising are prohibited in this court.

10 And, Judge, the Defendant has requested not to use
11 the interpreter at this time.

12 THE COURT: Okay. Have you already sworn in the
13 interpreter anyway?

14 THE CLERK: I have not.

15 THE COURT: why don't we just do that anyway to be
16 on the safe side.

17 THE CLERK: Ms. May.

18 THE INTERPRETER: Yes.

19 THE CLERK: If you can raise please your right
20 hand.

21 (Interpreter Sworn in by the Clerk.)

22 THE CLERK: Thank you.

23 THE COURT: Thank you.

24 This is the matter of the United States of America
25 versus Haitao Xiang. The Case Number is 4:19-CR-000980 HEA.

1 we're before the Court for purposes of sentencing at this
2 time. Has the Defendant pled guilty in this matter?

3 THE DEFENDANT: Yes.

4 THE COURT: That was on January 6th, 2022.
5 Sentencing was deferred pending the receipt of the
6 presentencing investigation report, which the Court has now
7 received and reviewed.

8 Let the record further reflect that the Defendant
9 appears with counsel Mr. Vadim Glozman. The United States
10 appears through Mr. Matt Drake.

11 This matter is proceeding by video consistent with
12 the letter and spirit of the CARES Act as it relates to
13 certain criminal proceedings as well as being consistent with
14 the court order issued by Judge Sippel, Chief Judge of the
15 Eastern District of Missouri, that allows for continuing
16 operations of the Court during these pandemic circumstances.

17 Mr. Glozman, on behalf of the Defendant are you
18 ready to proceed?

19 MR. GLOZMAN: The defense is ready, Your Honor.

20 THE COURT: Do you have any objections to
21 proceeding by video?

22 MR. GLOZMAN: No objections.

23 THE COURT: Have you had the opportunity to review
24 the presentence investigation report with your client?

25 MR. GLOZMAN: I have, Your Honor.

1 THE COURT: And are there any objections to the
2 report as a result of your meeting with your client?

3 MR. GLOZMAN: Yes, Your Honor. We have several
4 objections that we were able to work through with the
5 probation office. There are three outstanding objections.
6 One is regarding a statement contained in Paragraph 31 in the
7 presentence report.

8 The second objection is a special condition of
9 supervision that's contained in Paragraph 103.

10 And the third and probable significant one is the
11 objection to the restitution that is being sought in this
12 matter.

13 THE COURT: All right. So let's go over those
14 objections, and we'll start with Paragraph 31.

15 MR. GLOZMAN: Your Honor, what the objection to
16 this is that Paragraph 31 states that, quote, "By stealing
17 and utilizing Monsanto's trade secret, Xiang would have
18 eliminated Monsanto's exclusive access to their proprietary
19 information which would reduce Monsanto's international
20 market value."

21 Now, this is a statement that's saying it would
22 have done this when there is absolutely no evidence to
23 support this just as there's no evidence to warrant any loss
24 in this case. This is complete speculation based on nothing.

25 In the final PSR addendum the probation officer in

1 the final part of this paragraph says won't -- if it could
2 have affected it, but, again, that's just conjecture based on
3 nothing. The PSR is supposed to be based on facts and the
4 law, and there's supposed to be factual objections. This is
5 kind of speculation by what could have happened if this was
6 successful. And it's just inappropriate to have such
7 definitive language in this thing if it would have occurred
8 as it says.

9 THE COURT: Mr. Drake, what say you?

10 MR. DRAKE: Well, thank you, Your Honor. The
11 Government's position, Judge, is that the PSR in that
12 statement in Paragraph 31 is accurate. It is certainly true
13 that by Dr. Xiang -- Defendant's theft of Monsanto's trade
14 secret he certainly deprived them of their exclusive access
15 to their proprietary information, so that statement is
16 factually true. By taking the trade secret he did profit off
17 of their exclusivity to their proprietary information.

18 To the defense's point about the market share it is
19 true that the Government does not have proof that Monsanto's
20 market share has been impacted or reduced. However, I think
21 it is -- it is accurate to say that by depriving them of the
22 exclusive access and control over their property Monsanto's
23 market share could be impacted in some negative way. And
24 we've addressed that in the response that we filed, Judge,
25 with the Court in response to the Defendant's objections.

1 In other words, if the PRC, the People's Republic
2 of China, could have gotten use of this product, it certainly
3 could deprive Monsanto of that marketplace in the future
4 should they ever go into China. It could also deprive them
5 of the ability to market their product and be international
6 players in the future if the PRC, the People's Republic of
7 China, were to market it on the international marketplace.

8 And even if they did none of those things, Judge,
9 and they just developed the trade secret in their own
10 country, it can reduce the United States agricultural
11 producers' ability to sell to that country in the future.
12 Now, I realize, and I think the defense makes a good point,
13 that a lot of that is speculative and could and may, but I do
14 think that by the theft of the trade secret there is value
15 and truth to the fact that it could affect Monsanto's market
16 value in the future. I think that the PSR is accurate to
17 that point.

18 THE COURT: Mr. Glozman.

19 MR. GLOZMAN: Well, the PSR says that it wasn't a
20 factor which is definitive, and, again, Mr. Drake is saying
21 all of these things that could and may have happened, and we
22 can talk for days about what could or may happen based on
23 nothing beside speculation.

24 If Your Honor wants to consider that with 3553(a),
25 you, of course, are entitled to do that, but I think as far

1 as the PSR goes for the fact of it saying something could
2 happen is not a fact. It's just speculation.

3 THE COURT: Anything else?

4 MR. GLOZMAN: No.

5 MR. DRAKE: No.

6 THE COURT: All right. As to this objection
7 referencing Paragraph 31 of the presentence investigative
8 report, the arguments presented by counsel on the record as
9 well as those noted as a matter of record either by filings
10 or motions the motion is overruled and denied. The
11 conclusions that were set out in Paragraph 31 are entirely
12 correct and appropriate and consistent with the guidelines
13 and the notes.

14 And we're moving on to Paragraph 103.

15 MR. GLOZMAN: Your Honor, with that we'll just --
16 we'll rest on our submission as to believing that it's not
17 warranted in this --

18 THE COURT: Okay.

19 MR. GLOZMAN: -- on the basis of the Fourth
20 Amendment and pertaining to what actually happened here.

21 THE COURT: Any response further other than the
22 response that you have already filed, Mr. Drake?

23 MR. DRAKE: Well, just briefly, Your Honor. This
24 is a pretty routine condition that is used in this district
25 as the Court is well aware.

1 THE COURT: Uh-huh.

2 MR. DRAKE: Dr. Xiang in this instance stole a
3 piece of information, he took it to his home, and he later
4 put it on electronic devices that he was trying to remove
5 from the country. A search -- a condition related to
6 searching a residence or electronics with reasonable grounds
7 is I think particularly appropriate given the manner in which
8 the crime was committed, Judge.

9 THE COURT: Yeah. So the objection regarding
10 Paragraph 103 is overruled and denied. Mr. Drake is
11 entirely accurate with respect to that being a standard
12 condition of supervision in this district, and especially
13 under the circumstances such as this regarding the use of
14 technology and inappropriate use.

15 Restitution amount, Mr. Glozman.

16 MR. GLOZMAN: Your Honor, I think there's two major
17 issues here with the restitution amount. And before I get
18 to them I think first the statute says, perhaps, to be an
19 actual loss for there to be the -- under the MVRA there has
20 to be actual loss, and there is no actual loss in this case.
21 Everyone agrees to that.

22 And also there's a 60-day notice requirement and
23 which was completely ignored in this case. We were not given
24 the notice until last -- late last week, so procedurally it's
25 completely improper.

1 But when we get down to the actual number -- and
2 I'm just going to say \$150,000, and it's approximate -- what
3 we don't know here is if this money was necessary. And it
4 certainly -- we don't have sufficient evidence establishing
5 how they got to that money. I know the Government has filed
6 a response yesterday saying, well, he needed Monsanto's help,
7 you know, to find this, this and this, and that's all fine,
8 but what we don't know is why it was necessary for them to
9 use the services of the whole law firm to do this.

10 The law firm didn't have information that the
11 Government would seek. And, you know, I've worked with
12 Mr. Drake and Ms. Carroll for a year and a half now, and
13 they're very able attorneys. And I'm sure that the attorneys
14 at Husch Blackwell are able too, but the Government didn't
15 need their help in, you know, researching the law for this or
16 drafting documents.

17 They pretty much acted as an intermediary between
18 Monsanto and the Government. And why Monsanto couldn't just
19 talk to the Government directly and get the information they
20 needed we don't know.

21 So if they wanted to hire attorneys to protect
22 their rights, that's completely up to them to do, and, you
23 know, maybe they should have done that, but that doesn't mean
24 it's a necessary expense that has to do with this case.

25 And even, you know, we cited Justice Kavanaugh in

1 the submission thing using these attorneys is not necessary
2 for this sort of prosecution. Sure Monsanto got themselves a
3 safeguard, but what does Husch Blackwell do? And half of the
4 things I remember them doing here is they're showing up for
5 detention hearings and status hearings and sitting in the
6 hard seats for the motion to suppress hearing. And if
7 they're billing for any of that, how in the world is that
8 necessary? It's not. And there has to be a burden here
9 meeting the necessary expenses.

10 And if Monsanto's participation was necessary,
11 fine, but we have nothing about what Monsanto's going to turn
12 over that was necessary. We have them outsourcing work
13 without proof about why they needed them.

14 And then this goes to the sufficiency of what they
15 gave us. We have a single sheet of paper that says one
16 number, 150,000, that they want back and nothing to show how
17 they got to that 150,000. There is absolutely nothing in
18 the record saying, well, this time was spent doing this, and
19 this is why it was necessary. This time was spent doing
20 this, and this is why it was necessary.

21 We just have one number. We can't argue about
22 whether it was necessary or not, so even if some of the work
23 was necessary, maybe it wasn't the whole 150,000. Maybe it
24 was just 25,000. Maybe it was 50,000. Maybe it was
25 nothing. We don't know.

1 Even the Eighth Circuit in 2012 said that it's
2 insufficient to just use a general invoice. And this is
3 even less than a general invoice. It's a line that says this
4 is how much money was spent based on, again, no evidence.
5 Nothing to support it. Nothing to support the
6 reasonableness of everything or the sufficiency of
7 everything. And to hold Mr. Xiang accountable for something
8 like this is completely contrary to Eighth Circuit and United
9 States Supreme Court law.

10 THE COURT: Mr. Drake.

11 MR. DRAKE: Thank you, Your Honor. Respectfully I
12 disagree with Mr. Glozman on this point, and I think the PSR
13 is accurate. I'll start off with the premise, Judge, that
14 it is true that Monsanto did elect to hire Husch Blackwell to
15 represent them in this, just them, in their endeavors in this
16 case, and I don't think they should be penalized for seeking
17 the advice of counsel of an attorney in trying to figure out
18 how to navigate a Government investigation and the
19 prosecution here.

20 And the Government did make repeated requests of
21 Monsanto and Climate Corp or Climate as it's known as now to
22 do various things that we wanted to put in our response to
23 investigate loss, a series of loss like R&D or the
24 Defendant's knowledge of what was going on at the company,
25 the marketing things that we have talked about.

1 And because they chose to go through counsel to do
2 that I don't think that they should be penalized for that,
3 Judge. And, frankly, the Government had to go through
4 counsel, because Monsanto is a corporation is a represent --
5 a person or party to this endeavor.

6 I will also point out that my understanding is, and
7 I'm sure Mr. Wilke can correct me if I'm wrong, but I do know
8 that one number that was originally submitted I think that
9 has been supplemented to the probation office with a further
10 breakdown of how they spent their time.

11 Mr. Diehr, who is on this sentencing hearing by
12 Zoom, Judge, is the attorney that represents Monsanto. He
13 is from Husch Blackwell if the Court has any questions for
14 him. The bottom line is that the statute says when it comes
15 to attending proceedings and stuff it specifically includes
16 attendance at proceedings related to this offense meaning
17 those are allowable costs or expenses that can be reimbursed
18 through a restitution judgment.

19 And luckily, Judge, it's very fully briefed out by
20 both parties, but I will say that the Court doesn't have to
21 impose -- I mean, I think it should is the Government's
22 position -- restitution under the Mandatory Restitution Act,
23 but it doesn't have to. If the Court is inclined to enter
24 an order of restitution, it can do so as a condition of
25 supervised release and without ever reaching this issue.

1 The Court doesn't have to do it by statute if it
2 elects not to. It can make it just a condition. And, as
3 the Government points out in its brief, that is not a
4 statutory-based order. It is a condition of supervision
5 order.

6 And unless the Court has any other questions we'll
7 just rely on our brief and response.

8 THE COURT: Very well. Anything else,
9 Mr. Glozman?

10 MR. GLOZMAN: Yes, Your Honor, Mr. Drake mentioned
11 some supplemental documents that were given to probation, and
12 I've seen them. I'm not going to go into the detail of them
13 based on the issues I had yesterday, but it doesn't break
14 down anything to say what was done and why it was done. It
15 adds up hours to get up to something, but it doesn't say why
16 anything was done or why it was necessary.

17 And about going to court proceedings it still has
18 to be necessary for them to go to a proceeding. This going
19 to a public courtroom and watching something they don't have
20 to watch that's not necessary. There has to be some kind of
21 proof.

22 And it is their right to get an attorney, but it's
23 not their right to get it reimbursed, not under the law. And
24 that's why this number that's based on nothing that's
25 provable can't be held liable on Mr. Xiang.

1 THE COURT: Anything further?

2 MR. GLOZMAN: No, Your Honor.

3 MR. DRAKE: Judge, the only thing I would add to
4 mine, Your Honor, is if this is an issue that Mr. Glozman
5 brought up the timing of the submission within the 60 days
6 according to the statute, I will say that 3664(d)(5) says if
7 the Court needs further information or further clarification
8 or further evidence of necessity, it allows the Court to set
9 an abeyance for up to 90 days for a decision on this to ask
10 for further information. So if it's a matter of not having
11 sufficient information or data, there is a statute that
12 allows for the Court to request further inquiry.

13 THE COURT: All right. Well, with that being
14 noted you are correct on that, Mr. Drake, and, Mr. Diehr,
15 that might be a good idea so that the record is clear to
16 submit additions to the Court and further explanations of
17 what went into this and that.

18 So what I would propose to do then is ultimately
19 not impose any monetary restitution at this time, but I will
20 consider whatever anyone wants to submit that is provided to
21 the Court in that sense.

22 MR. GLOZMAN: Yes, Your Honor.

23 MR. DRAKE: Yes, Your Honor.

24 THE COURT: Very good. So I guess with that we'll
25 show the objections regarding the amount of restitution are

1 under submission at this time subject to additional
2 information to be provided to the Court as previously noted.
3 Okay. Do you have that, Heather?

4 THE CLERK: Yes, Judge, I got that. Thank you.

5 THE COURT: All right. Any other objections to be
6 discussed at this time then, Mr. Glozman?

7 MR. GLOZMAN: No, Your Honor.

8 THE COURT: Now, the Court -- having heard and
9 considered the objections by counsel to the presentence
10 investigation report the Court will accept the presentence
11 investigation report and its conclusions, and I'll certainly
12 appreciate any additional information being provided on
13 restitution.

14 (PURSUANT TO LOCAL RULE 13.05, A CONFERENCE WAS
15 HELD ON THE RECORD AND PLACED UNDER SEAL, AFTER WHICH THE
16 FOLLOWING PROCEEDINGS CONTINUED IN OPEN COURT:)

17 THE COURT: Okay. This portion of the transcript
18 has been sealed.

19 And let me ask you this, sir: We've been talking
20 quite a while. In light of the announcement earlier that you
21 did not wish to proceed with an interpreter or did not feel
22 that you needed an interpreter are you satisfied that you
23 have understood everything that we've been discussing here up
24 to this point in time without using or taking advantage of
25 that and the interpreter available to you?

1 THE DEFENDANT: Yes. So far I can understand.

2 THE COURT: Okay. Very good. The Court will now
3 conclude that the Total Offense Level applicable to the
4 Defendant is 12. Your Criminal History Category is a I,
5 which in return gives us a guideline provision range of 10 to
6 16 months and a period of supervised release of 1 to 3 years
7 and a special assessment of \$100, and, of course, there is
8 that restitution figure available which has been noted in our
9 discussions, \$150,458. That fee imposition of same is to be
10 determined at a later date.

11 Is there anything else you would like to relate to
12 the Court on this matter on behalf of your client,
13 Mr. Glozman, before the Court imposes its sentence?

14 MR. GLOZMAN: Yes, Your Honor. I'd like to make an
15 argument pursuant to 3553(a).

16 THE COURT: Very well.

17 MR. GLOZMAN: Your Honor, I filed an extensive
18 memorandum about Mr. Xiang's life, and I'm not going to
19 reargue or at least I'll try not to bring anything up that I
20 talked about. I did my best, and I hope I did justice to
21 illustrate the person that Mr. Xiang is aside from the
22 charges against him. That's always hard to do within the
23 confines of a few pages for a person that I've only known for
24 a short period of time during the worst period of his life.

25 And so I had the character letters attached that I

1 know Your Honor read by the people who at some point in their
2 lives were touched one way or another by Mr. Xiang's
3 kindness, and that's the one distinct point between all of
4 them.

5 so a couple of letters are from people who are
6 dumbfounded by the predicament to say the least that Mr.
7 Xiang has found himself in given the abhorrent nature of the
8 charges against him. Granted, I don't know him as well as
9 they do. I do wholeheartedly agree with their sentiments,
10 and I've come to see that in him myself.

11 And, as an aside briefly, I experienced something
12 in this case that in my short time of being a lawyer at least
13 I've never seen before. I had someone reach out to me who is
14 an inmate in the same jail as Mr. Xiang to tell me how much
15 of a wonderful person Mr. Xiang is and how he hopes
16 everything works out for him. And I know that Mr. Xiang's
17 wife had a similar situation after he was transferred from
18 one county to another, had an inmate reach out and just make
19 sure that everything was okay with Mr. Xiang because the
20 other inmates were praying for him, and you can take that for
21 whatever it is, Your Honor, but I think it speaks volumes of
22 who Mr. Xiang is as a person for people who have their own
23 problems and their own cases specifically to reach out on
24 behalf of another inmate when they have nothing to gain from
25 that other than the fact that he's left a profound mark on

1 them as a person.

2 And so I'm faced with this difficult task of
3 reconciling the obvious rift between the aberrational
4 misconduct for which Mr. Xiang as openly and candidly
5 accepted responsibility for and the greater balance of a
6 lifetime of consideration and commitment to family and
7 friends.

8 And so it is with a great deal of apprehension that
9 I try to do this today not because I lack any confidence in
10 this Court in reaching a sentence that is reasonable and not
11 greater than necessary, but because what has been presented
12 to this Court so far are just Mr. Xiang's actions that I can
13 only describe as being not conforming to his actual
14 character.

15 The truth is that Mr. Xiang is not an evil person.
16 He is not a person that gains any sort of pleasure from the
17 misfortune of others, nor is he a person that lacks the
18 capacity to appreciate the effects of his conduct not only on
19 the people closest to him but on the victim of the
20 transgression. Instead, there's a slight distinction in his
21 character that doesn't excuse or explain his actions but I
22 think puts it into context.

23 And what the character letters come off as it seems
24 like he has a need to pleasure people and to help them, but I
25 think instead if you look between the lines what he has is an

1 incessant desire not to let people down, not to disappoint
2 them, not to be a disappointment. And the roots of this
3 personality trait I think can be traced back directly to his
4 childhood when he was raised in an authoritarian household
5 with a father that dictated every aspect of his life from the
6 grades he had to get, the jobs he had to hold to support the
7 family as a child, to the clothes he had to wear, making him
8 wear his sister's clothing so they didn't have to purchase
9 his own clothing.

10 And every time his father felt let down whether it
11 was about the grades he got or a job he had or the friends he
12 had he was abusive. And his father was so abusive that
13 Mr. Xiang's sister was led to attempt suicide on multiple
14 occasions.

15 And so it is with that that Mr. Xiang learned not
16 to be a disappointment, to do as he's told, to get good
17 grades his entire life, to go to a great college and get a
18 great job that the people in his town only dreamed of
19 getting, to live his father's dream.

20 But when that father's dream was becoming a
21 reality, Mr. Xiang fell in love. And he fell in love with a
22 woman who would ultimately become his wife and the mother of
23 his child. But she had other plans. She had plans to come
24 study in the United States, a country where she wanted to
25 start a family and raise her kids, a country that was the

1 exact opposite of where he grew up.

2 And so Mr. Xiang decided to join her on this
3 journey. He decided to quit his job and apply for a student
4 visa and come to the University of Illinois where he got his
5 Ph.D. and married his wife. They had a beautiful child.

6 And the next nine years he started working for
7 Monsanto. In about 2015 or '16, about 14 years after he came
8 into this country, Mr. Xiang's father started to demand that
9 he come back to China, that they had spent a tremendous
10 amount of money on his education, and it was time for them to
11 reap the benefits of his success.

12 And he didn't want to disappoint his parents.
13 That's what he was taught to do. That's what his culture
14 taught him to do. And his dad was sick at the time. He had
15 cancer. He has since died. And his mother has been sick
16 and is dying right now.

17 And he felt compelled to go back and to show them
18 what he could do and to look for opportunities. And one of
19 these opportunities came when he was contacted by a recruiter
20 for the Hundred Talents Program. And it was an opportunity
21 where Mr. Xiang could apply the skills and knowledge he had
22 to help them develop something new and something similar to
23 what he knew.

24 And now we're here. Mr. Xiang never wanted to
25 harm Monsanto. He never intended for them to lose any money

1 or lose any market share. He never intended for them to
2 lose any business. He wanted to leverage his knowledge and
3 his experience in a new endeavor. That was it.

4 But clearly that was shortsighted because the harm
5 that can and was done is not limited to financial harm but
6 much more to Monsanto, which I'm sure that they will tell you
7 about today.

8 The truth is that there's no one present here today
9 that appreciates the gravity and the seriousness of what
10 Mr. Xiang did more than he does, and I say that to Your Honor
11 unequivocally and wholeheartedly. A man that has never
12 wanted to disappoint anyone in his life has now found himself
13 in a situation where he did just that. He disappointed
14 everyone. He disappointed Monsanto, the company that gave
15 him a chance as an international student to brush off his
16 Ph.D.

17 He disappointed the United States, a country that
18 he called home for nearly two decades. He disappointed the
19 people in China as they are enraged in him because of
20 accepting responsibility for his actions. He disappointed
21 his wife who has stood by him by his side through everything.
22 He disappointed his child. And more importantly he has
23 disappointed himself.

24 If punishment is a goal of sentencing, I can assure
25 you that Mr. Xiang -- the time he has served so far has done

1 its purpose. He is a shell of his old self, at least the
2 old self I met a year and a half ago when he had already been
3 in custody for nearly a year. And I can only imagine the
4 difference in the person that he was before he was ever
5 arrested.

6 There is not a shred of hope or optimism left in
7 his body. And this is not something that he'll ever be able
8 to shake off. It will follow him for the rest of his life.
9 And he finds himself now in limbo not knowing where he will
10 go, because he's being deported from one country that doesn't
11 want him to another country that no longer wants him either.
12 He feels isolated and wronged. He does not know when he's
13 going to see his wife again or if he will or his child or his
14 dying mother.

15 If retribution is the goal, that's certainly been
16 achieved. And if deterrence is a goal, that's certainly been
17 met. This experience has certainly ensured that Mr. Xiang
18 will never see the inside of a courtroom again. If there's
19 anything I'm certain of, it's that.

20 And as for general deterrence it's hard to fathom
21 how that hasn't been achieved. Mr. Xiang has sat in custody
22 for nearly two and a half years not being able to fight his
23 case on bond while being a first-time nonviolent offender.
24 And the time he's spent in custody has now amounted to three
25 times the bottom of the applicable guideline range. If

1 there is some chance to send a message, this certainly does,
2 Your Honor.

3 And we know the Government's position is that
4 Mr. Xiang brought much of this upon himself. It remains fair
5 that this describes the last two and a half years of his
6 life. And so today he's going to find out whether he's
7 completed his time of incarceration or if he is still in the
8 beginning stages of what's to lie ahead.

9 Your Honor, I can't begin to presume the difficulty
10 of what you have to do here today, but I do respectfully ask
11 that you take all these mitigating circumstances into
12 consideration. There's also others that have previously been
13 brought to your attention.

14 And we ask you to look at not only the face of the
15 allegations against Mr. Xiang but his true character. What
16 he did is wrong, and he'll be the first person to admit that.
17 But we need to look at the type of person he was during these
18 transgressions and the circumstances that led to his
19 involvement in the decision that he's made.

20 And, as I said, when I first started this all too
21 long presentation, I don't know Mr. Xiang as well as the
22 people that wrote the character letters on his behalf, but I
23 wholeheartedly defer to their sentiments. I did get to know
24 him fairly well over the last year and a half. He's a good
25 person, and I see that in him.

1 And if anyone has earned another chance, Your
2 Honor, it's him and the things that he's done over the course
3 of his life prior to his transgressions, prior to him needing
4 to prove to this Court that his character is not what's
5 reflected in the indictment when no one was keeping track but
6 vividly remember what he's done.

7 As someone once said what good is the value of a
8 man's life if not given full measure at his time of need?
9 Well, Your Honor, this is a time of need. Aside from the
10 instant conviction I would ask that Mr. Xiang's actions be
11 treated with compassion in whatever it may be that Your Honor
12 decides.

13 But, as Mr. Xiang will tell you, whatever sentence,
14 Your Honor, imposes he will deal with it and use it to become
15 a better person, the person that everyone close to him knew
16 him to be.

17 And so I hope, Your Honor, that you take all this
18 into consideration and sentence Mr. Xiang according to the
19 life he has led as lenient of a sentence as you see fit under
20 the law. Thank you.

21 THE COURT: Thank you.

22 Mr. Drake, anything on behalf of the United States?

23 MR. DRAKE: Yes, Your Honor, very briefly.

24 First, Your Honor, I'd like to introduce Ms. Nikki
25 Davis who is on the zoom hearing. She's a representative of

1 Monsanto, and she is prepared to make a statement on
2 Monsanto's behalf when the Court deems the timing
3 appropriate. And I won't go into the matters that she has to
4 say, but I would like to address a couple of points.

5 I don't want to belabor or reiterate all of the
6 material that the Government put in its sentencing
7 memorandum, but I do want to make maybe a few points and
8 highlight a couple of things. When Monsanto and what was
9 then The Climate Corporation now known as Climate hired Dr.
10 Xiang, the Defendant, they did so because they believed in
11 him, and they were going to rely on him, and they trusted
12 him. And they were going to rely on him to help them develop
13 the very idea that they existed to produce and market, and
14 that is the trade secret.

15 And Mr. Glozman is right Dr. Xiang, the Defendant,
16 disappointed them. He let them down when he betrayed their
17 trust when he stole the trade secret. And it wasn't just an
18 isolated thing that happened, Your Honor. It was -- it was a
19 plan, and it was something that was calculated.

20 And by that I mean he knew what he was doing. He
21 knew it when he was doing the Google searches to say things
22 like when he was searching for things like "evidence that can
23 be used to accuse me or information of third parties." He
24 knew what he was doing then when he was trying to figure out
25 how to get away with the crime he was in the process of

1 committing.

2 He also knew it when he was applying to become a
3 recruit for the Hundred Talents program that Mr. Glozman
4 mentioned. That's a state-sponsored program to exfiltrate
5 other information from other countries such as the United
6 States.

7 And when he was applying for that program, he was
8 describing what he was going to do if he were to get that
9 opportunity in the People's Republic of China. And he knew
10 it while he was working for his employer, and he knew what he
11 was going to take with him when he left, and that was the
12 trade secret that he ultimately stole.

13 By all accounts, Judge, the PSR points out very
14 clearly Dr. Xiang is a very highly educated, intelligent and
15 smart man, and all of this stuff didn't deter him from
16 stealing what he stole, the Nutritional Optimizer, Judge.

17 You know, I know and the Court is well aware the
18 loss in this case is very difficult to calculate. And
19 Mr. Glozman is right the Government cannot prove any actual
20 loss. And the ultimate Total Offense Level that the PSR
21 finds is a Level 12, and the Government has agreed with that.

22 However, given all the Court knows about this case
23 and from the sentencing memorandum I think the Court should
24 recognize, and I urge the Court to recognize that that Total
25 offense Level of 12 significantly under-represents the

1 seriousness of what happened here.

2 Mr. Xiang pled guilty to a conspiracy to commit
3 economic espionage meaning he stole a trade secret for the
4 benefit of another nation, another country, another state, in
5 this case China. And a Level 12 just significantly
6 under-represents the gravity of what happened here, Judge.

7 And I would urge the Court to consider what the
8 Government put in its sentencing memorandum, which is to
9 sentence the Defendant somewhere between 28 to 37 months, and
10 we provided reasons in our sentencing memorandum how we came
11 to those conclusions, Judge.

12 So I would ask the Court to vary upward and
13 sentence the Defendant to a term of incarceration that the
14 Court deems appropriate given the circumstances and the
15 consideration of what Mr. Glozman says as well as what the
16 Government has said.

17 And with that, Judge, I will conclude. And if the
18 Court would at the appropriate opportunity give Ms. Davis an
19 opportunity to speak on behalf of the victim in this case
20 that would be Monsanto, the Government would appreciate that,
21 Judge.

22 THE COURT: All right. Now, Ms. Davis, are you
23 there? Are you there? The video feed for Ms. Davis it looks
24 like it might be frozen. She may be frozen. Why don't you
25 go out and come back in.

1 MR. DIEHR: Your Honor, if I may, this is Matt
2 Diehr. I am an attorney for --

3 THE COURT: Yes.

4 MR. DIEHR: -- Climate, LLC. We may have lost
5 Ms. Davis' feed. If she comes back on, certainly I will
6 defer to her. I can try to summarize, if the Court is so
7 inclined, some of what I believe Ms. Davis would have to say.

8 THE COURT: Well, hold on, because it looks like
9 they lost the court reporter's feed also, of course.

10 All right. Oh, no, there she is. She's there.
11 Now, before you do that, Mr. Diehr, do you have any objection
12 to Mr. Diehr making a statement, Mr. Glozman?

13 MR. GLOZMAN: Your Honor, there are a bunch of
14 objections I would have to anyone making a statement.

15 THE COURT: Okay. Go ahead, Mr. Diehr.

16 MR. DRAKE: Your Honor, I may be able to reach her.
17 Can I take one moment to try to do so?

18 THE COURT: Yeah, go ahead.

19 MR. DRAKE: Okay. Thank you.

20 MS. DAVIS: I do apologize. My connection dropped.

21 THE COURT: Very good. Now that everyone can see
22 and hear you can you state your name for the record, please.

23 MS. DAVIS: Thank you, Judge. I am Nikki Davis.
24 I'm the Vice President of Operations at Climate, LLC, which
25 is a division of Monsanto Company, which is a subsidiary of

1 Bayer Crop Science.

2 THE COURT: Okay. Very well. Go ahead and make
3 your statement, Ms. Davis.

4 MS. DAVIS: First, I thank the Court for allowing
5 me to speak today on behalf of Climate, and, again, I do
6 apologize for losing my connection.

7 I have listened very carefully to this hearing
8 today and these proceedings. What I'm here to speak about
9 today is a little bit about the impact of the charges that
10 we're here to discuss that they've had on our company
11 directly, but even more importantly than the company the
12 people that comprise the company.

13 Although we speak about Monsanto Company and
14 Climate as an entity at the end of the day it's a collection
15 of people. I'm a 20-year veteran of the company where I
16 spent the majority of my career at the company as an
17 intellectual property attorney specializing and partnering in
18 patent trademarks. Although a few years ago I did lose the
19 business aside, but I still have engaged with IP.

20 And what that history allows me to understand in my
21 prior role as well as my current role is the nature of what
22 our team members, our employees put in to developing any of
23 the technology in the ventures that we have. Now, when I
24 was a patent attorney for the company, I would follow
25 documents around the globe, and one of the hardest things to

1 do was translate not just the technology but the passion that
2 our team members have for the good that can be done around
3 the world.

4 We are a great employer. However, we're not the
5 company that pays the highest compensation of all. We're
6 not the employer that has the best benefits in the world, but
7 we are an employer that people come to because of our
8 purpose.

9 Now, our goal is to help for all, hunger for none.
10 And there are many individuals who work for this company and
11 have worked for our company that say that was the reason they
12 come to work each day, and it's the reason they stay at work.
13 The confirmation of what we are here to deliver it
14 fundamentally changes the world. It changes the world for
15 the better.

16 There are people who are fed because of what we do.
17 And with that we have our scientists, we have our researches,
18 we have our software engineers who come to this place each
19 and every day with the intent and focus of helping to deliver
20 that purpose of hunger for none. They bring in ideas that
21 they've had their entire careers. They have new ideas they
22 want to work on together.

23 And working with the company for 20 years I can
24 tell you especially at Climate, LLC there's no greater place
25 where teamwork and collaboration fosters that innovation.

1 we sit in a very open environment. I'm in the office today,
2 and I'm in a conference room, because our entire arrangement
3 is set to have open seating so that people can foster
4 together as a team, because we know that is where innovation
5 comes from. That's where innovation stands. And that's the
6 fastest way to develop it from a very good idea to something
7 that we can do to turn it into a product that farmers can use
8 to further their mission and purpose of feeding the world.

9 when you look at the type of charges that we have
10 today, it arose from a type of collaboration that is
11 fundamental to delivering what we are here to remember, team
12 members. They are exactly that, team members. They rely on
13 each other. They trust each other. They share their
14 greatest ideas and thoughts. They cluster together whether
15 it's virtually or in person to best foster how to turn a
16 really good idea into a great idea.

17 our development timelines are accelerated by this
18 level of collaboration by this partnership. When there's a
19 lack of trust, when the culture does not foster that
20 collaboration, when people cannot believe they're all here
21 for the same purpose, that erodes our ability to develop
22 these great inventions that impact what we deliver so
23 tremendously. It means that people are less willing to
24 share, they're less willing to exchange ideas, they're less
25 willing to sit together in a room or virtually and do the

1 type of collective invention discovery that leads to this
2 development.

3 That extends our development timelines, and that
4 has a real cost. Yes, there's a financial cost when we
5 extend development timelines. Where there's a greater cost
6 that means that these items that we are developing they don't
7 get to market as fast.

8 There's also a reverse component of that. Not all
9 of our ideas are the ideas that we want to proceed on. And
10 not all of our ideas should be developed. When people don't
11 work together and talk, we can't come up with a consensus
12 that this is an idea that should not be developed, that we
13 should put this to rest and pivot and pick up another idea
14 that's in the pipeline.

15 We think of ourselves as an entity, and we are. At
16 the end of the day we are with good people, and we're working
17 for the people built on a common purpose for being here, and
18 that's because we believe that what we're solving, what we're
19 helping the world to address, the hunger that we have.
20 Improving the lives of everyone through better agriculture
21 comes from something that each of us personally believes in,
22 and we believe in the outer source thinking and working on
23 this together.

24 That erodes the trust. We can't have it. That
25 erodes our timelines and development, and it really impacts

1 us greatly. And so, yes, while it may seem to be something
2 that's very contained financially, we can discuss how do we
3 get to that calculation.

4 what I wanted to share today is that beyond the
5 financials there's this other impact, and that does -- it's
6 something that is not seen beyond the files, not seen beyond
7 the paperwork, because that's something that's felt in the
8 halls of our work environment when there is a concern that
9 I'm not able to trust my colleague when I have to question
10 the motives of why are they here and are we all here for a
11 collective purpose.

12 so, while I do appreciate everything that counsel
13 has set forth today, I appreciate even greater the
14 opportunity to share what's inside the walls of our company
15 and how incidents such as this does have a chilling effect on
16 the development. It does shape the lives of everyone who's
17 working together collectively to drive this purpose.

18 And so with that I say thank you.

19 THE COURT: Thank you. Anything else, Mr. Drake?

20 MR. DRAKE: Nothing for the Government, Your Honor,
21 not at this time.

22 THE COURT: Mr. Xiang, is there anything you want
23 to say on your own behalf?

24 MR. GLOZMAN: I'm not sure if he heard you, Your
25 Honor.

1 THE COURT: Mr. Xiang, can you hear me? Is there
2 anything you would like to say on your own behalf?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Go right ahead.

5 THE DEFENDANT: Yes. Your Honor, I've been
6 feeling shame the past 20 months -- I mean, nine months since
7 I have been arrested. I am here today for my past and
8 repent my wrongdoings. So today I want to express my
9 emotions and enter an apology to everyone who has been hurt
10 because of my offense.

11 In particular the first thing I want to apologize
12 is to Monsanto and to the Climate Corporation. I am
13 extremely sorry to them. I'm not a bad man to forgive me.
14 But most of all I want to apologize to the Government and the
15 Court of this country.

16 And last I want to apologize to my family who I
17 disgraced. And, Your Honor, I've been fully surrendering
18 myself to the experience during my incarceration. I'm not
19 the same person anymore. I've truly learned my lesson, and
20 the lesson has been deeply imbedded in my bone marrow.

21 I have committed to the rest of my life to cleanse
22 this thing of my myself, this stain on myself. Your Honor,
23 given a second chance I will do my best not to disappoint
24 anyone anymore. Okay. Thank you. That's all.

25 THE COURT: Is there any legal cause why sentence

1 should not now be pronounced, Mr. Glozman?

2 MR. GLOZMAN: No, Your Honor.

3 THE COURT: Mr. Drake?

4 MR. DRAKE: No, Your Honor.

5 THE COURT: No legal cause having been shown why
6 sentence should not now be imposed and allocution having been
7 granted, it will be the order and judgment of the Court
8 pursuant to the Sentencing Reform Act of 1984 and as well as
9 the provisions of 18 U.S.C., Section 3553(a), and as well as
10 the statements and the arguments of counsel on the record
11 here today and as well as there were documents filed by
12 counsel for the Defendant and the United States as to their
13 suggested and proposed positions on sentencing.

14 And the Court under review of all the facts and
15 circumstances of the case and the nature of the charge
16 knowing the nature of this offense and the nature of the
17 facts, the conduct of the Defendant in relation to the charge
18 suggests and demonstrates not exactly what sometimes the
19 guidelines have contemplated in some offenses and don't fully
20 consider and take into account what the real severity of the
21 offense is.

22 The suggested guideline range here is 10 to
23 16 months, I believe, which contemplates in my view an
24 offense or offense conduct which is not merely the same as or
25 as heinous as the offense and the conduct involving the

1 Defendant in this instance. In short, the number in the
2 guideline range, therefore, was considerably lower than it
3 should be.

4 And for that reason I think it's important to
5 highlight the significance of this offense and why I'm
6 varying upward. You know, this is not under the rule a
7 profiting crime or white collar crime where someone took
8 \$2,000. It's not a real ruthless crime. It's not a crime
9 just against a corporation. The nature of the crime is far
10 more significant than that.

11 The offense is entitled "Conspiracy to Commit
12 Economic Espionage," and that type of offense is far reaching
13 and does far greater harm than just on who the punitive
14 victim is in this case. Monsanto Climate is the victim of
15 the trade secrets taken. Those trade secrets affect a far
16 greater group of people. They affect the nation. I would
17 go so far to say it's an offense that has global impact in
18 its occurrence.

19 It's not a little crime, so, you know, the
20 Government has suggested that to the Court in their arguments
21 on behalf of the United States in support of that and are
22 significant and reasonable and spot on in relationship with
23 the nature of the offense.

24 So that being stated the Defendant is committed to
25 the Bureau of Prisons for a term of 29 months.

1 Upon release from imprisonment, the Defendant will
2 be placed on supervised release for three years. If not
3 deported, the Defendant shall report in person to the
4 probation office within 72 hours of release from the custody
5 of the Bureau of Prison in the district to which the
6 Defendant is released.

7 The Court has noted earlier that the Court will
8 hold in abeyance its judgment on restitution so that you can
9 forward any information within 90 days in support of that
10 demanded restitution.

11 The Court will impose a fine of \$150,000. Payments
12 of the fine are to be made to the Clerk of the Court. The
13 interest requirement for the fine is waived.

14 All criminal monetary penalties are due and payable
15 in full immediately. The Defendant shall pay all criminal
16 monetary penalties to the Clerk of Court. And the Defendant
17 shall make a lump sum payment of \$150,000 within 60 days of
18 the day of sentencing.

19 Until all criminal monetary penalties are paid in
20 full, the Defendant shall notify the Court and this
21 district's United States Attorney's Office Financial
22 Litigation Unit of any criminal monetary changes in the
23 Defendant's economic circumstances that might affect the
24 Defendant's ability to pay the fine.

25 The Defendant shall notify this District's United

1 States Attorney's Office Financial Litigation Unit of any
2 change of mailing or residence address that occurs while any
3 portion of the criminal monetary penalties remain unpaid.

4 And it's further ordered that the Defendant
5 participate in the Financial Responsibility Program while
6 incarcerated if that is consistent with the Bureau of
7 Prisons' policies.

8 The mandatory conditions of supervision will
9 attach. The standard conditions of supervision will also
10 attach as well as the special conditions will also be
11 imposed. And if it's determined that there are costs
12 associated with any of the services provided, the Defendant
13 will pay those costs based on a co-payment fee established by
14 the probation office.

15 And the Defendant must provide the probation
16 officer with access to any requested financial information,
17 and the Defendant will provide information about the shared
18 financial information with the United States Attorney's
19 office.

20 The Defendant must not incur any credit charges or
21 open additional lines of credit without the approval of the
22 probation officer.

23 The Defendant must apply all monies received from
24 any anticipated and/or unexpected financial gains, including
25 income tax refunds, inheritances or judgments to the

1 outstanding Court-ordered financial obligation. The
2 Defendant must immediately notify the probation office of the
3 receipt of any indicated monies.

4 If the judgment imposes a financial penalty, then
5 the Defendant must pay the financial penalty in accordance
6 with the Schedule of Payments sheet of the judgment. The
7 Defendant must also notify the Court of any changes in
8 economic circumstances that would affect his ability to pay
9 this financial penalty.

10 The Defendant must immediately report, continue to
11 report, or surrender to the United States Immigration and
12 Customs Enforcement and follow all of their instructions and
13 reporting requirements until any deportation proceedings are
14 completed.

15 If the Defendant is ordered deported from the
16 United States, the Defendant must remain outside the United
17 States unless legally authorized to re-enter. If the
18 Defendant re-enters the United States, the Defendant must
19 report to the nearest probation office within 72 hours of his
20 return.

21 The Defendant must submit his person, property,
22 house, residence, vehicle, papers, computers, other
23 electronic communications or data storage devices or media or
24 office to a search conducted by the United States probation
25 officer. The Defendant must warn any other occupants that

1 the premises may be subject to searches pursuant to this
2 condition. The probation officer may conduct a search under
3 this condition only when reasonable suspicion exists that the
4 Defendant has violated a condition of supervision and that
5 the areas to be searched contain evidence of the violation.

6 It is further ordered that the Defendant shall pay
7 to the United States a special assessment of \$100, which is
8 due immediately.

9 Anything else, Mr. Glozman?

10 MR. GLOZMAN: No, Your Honor.

11 THE COURT: Anything else, Mr. Drake?

12 MR. DRAKE: Very briefly, Your Honor. Consistent
13 with the plea agreement the Government would move for
14 dismissal of Counts 2 through 8 at this time.

15 And, Your Honor, I would just bring to the Court's
16 attention that there's a forfeiture allegation as part of
17 this and ask that the Court include in its order of judgment
18 that under 21 United States Code, Section 853 that the
19 Defendant has forfeited his right, title and interest in the
20 property that was previously identified in the preliminary
21 order that was issued on March 31st of this year, Judge. And
22 I can submit to the Court the Government's request for
23 forfeiture language at the conclusion of this proceeding.

24 THE COURT: Very well. It will be the further
25 order of the Court on oral application of the United States

1 that Counts 2 through 8 inclusive will be dismissed at this
2 time.

3 And it will be the further order of the Court that
4 it will be included in the final order of the Court that you
5 are required under 21 U.S.C. Section 853 to forfeit all items
6 that are the subject of the initial preliminary order of
7 forfeiture, and that was entered on March 31st of 2022, and
8 you will be provided the specific form of who to send it to.

9 Is that, Mr. Drake, what you indicated?

10 MR. DRAKE: Yes, Your Honor. Thank you.

11 THE COURT: Okay. Very good.

12 Now, Mr. Xiang, having sentenced you it's now my
13 opportunity to inform you of your right to appeal. Please
14 listen carefully. You could have appealed the sentence and
15 judgment in this case, but if you have failed to do that
16 within 14 days of the date of the sentence and judgment -- so
17 that would have been 14 days from today, if you did not file
18 your notice of appeal before the 14 days expired, then you
19 would have given up your right to appeal the sentence and
20 judgment in this case.

21 If you were not able to pay the costs for filing
22 the notice of appeal, you could have requested that the costs
23 be waived, and if the costs were waived, then the Clerk of
24 the Court would have filed a notice of appeal free of charge
25 for you.

1 You would have been able to file your appeal if you
2 believed that the sentence violated the law in some way or
3 was otherwise contrary to the law or if you believe that it
4 was void or voidable on its face for some legal reason.

5 Understand, though, that in light of the language
6 in your plea agreement and put on the record consistent with
7 that in the plea agreement you have given up your right to
8 appeal, and you have preserved your ability to file a
9 petition for a writ of habeas corpus under 28 U.S.C. section
10 2255, but you are limited to things like ineffective
11 assistance of counsel or prosecutorial misconduct, those two
12 things.

13 Do you understand those things that I've just
14 described to you?

15 MR. GLOZMAN: Your Honor, if I may interject. I
16 apologize. I don't believe we waived our right to appeal.

17 THE COURT: Oh, I stand corrected then.

18 Do you agree with that, Mr. Drake?

19 MR. DRAKE: Yes, Judge. The Defendant did reserve
20 some additional appellate rights that are not typically
21 reserved. I think it was the right to appeal a sentence
22 outside the guidelines, and I believe there was one other
23 issue. Oh, the issue of the motion to suppress.

24 THE COURT: So, yes. Okay. That's fine. I stand
25 corrected.

1 You did preserve your right to appeal in that
2 regard, Mr. Xiang, as to those two things. I stand corrected
3 on that as well as you have reserved your right to file the
4 petition for habeas corpus as I referred to.

5 Do you understand those things? Do you understand,
6 Mr. Xiang?

7 THE DEFENDANT: What?

8 THE COURT: Do you have any questions about any of
9 those things?

10 THE DEFENDANT: No, Your Honor. No.

11 THE COURT: That being said the Defendant is now
12 remanded to the custody of the U.S. Marshal to begin the
13 service of his sentence forthwith.

14 Good luck to you, sir. Stay healthy, stay safe,
15 and the same to everyone else. That will conclude this
16 proceeding. We're in recess.

17 MR. GLOZMAN: Thank you, Your Honor.

18 MR. DRAKE: Thank you, Your Honor.

19 THE COURT: Thank you all.

20 (PROCEEDINGS CONCLUDED AT 11:09 A.M.)

21

22

23

24

25

C E R T I F I C A T E

I, Alison M. Garagnani, Registered Merit Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 45 inclusive and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated Cape Girardeau, Missouri, this 13th day of May, 2022.

/s/Alison M. Garagnani
Alison M. Garagnani, CCR, CSR, RMR.
Official Court Reporter